

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Indianapolis Division**

PATRICK COLLINS, INC.,)	Case No.: 1:12-cv-00844-TWP-MJD
)	
Plaintiff,)	
)	
v.)	
)	
MATTHEW OLDLAND,)	
DERRICK LUND, RADLEY HADDAD,)	
and JOHN DOES 5, 6, 7, 9, 10, 11)	
and 12,)	
)	
Defendants.)	

**DEFENDANTS OPPOSITION TO PLAINTIFF’S MOTION TO FILE RENEWED
OPPOSITION TO DEFENDANT DERRICK LUND’S
MOTION FOR ATTORNEY FEES**

Defendant, Derrick Lund, hereby opposes Plaintiff’s Motion to File Renewed Opposition To Defendant Derrick Lund’s Motion for Attorney Fees (Dkt. 116).

Plaintiff’s Motion requests leave to file a renewed opposition to Defendant’s Motion for Attorneys Fees. (Dkt. 87) By filing this motion, Plaintiff acknowledged the obvious, which is that it had already filed its opposition and needed Court permission before it could file another one. However, rather than waiting for the Court to rule on its motion, Plaintiff simply waited a few days and filed it. (See Dkt. 120) The filing of that opposition, without being granted leave to do so and after expressly acknowledging that leave was required, is grounds to deny the instant Motion.

The Motion should also be denied because it is without merit and misrepresents the record. Specifically, Plaintiff requests leave to file a renewed opposition “in light of the Court finding that Defendant’s Motion is not moot.” However, Plaintiff seems to have forgotten that

on June 13, 2013, the day before its opposition was due, it raised the issue of potential mootness and was subsequently ordered to file its opposition by July 1, 2013. (“If, in fact, Defendant Derrick Lund's Motion for Attorney Fees [Dkt. 87] has been rendered moot by the Court's Order on Plaintiff's Motion to Withdraw Voluntary Dismissal With Prejudice [Dkt. 91], then Defendant Derrick Lund shall file a motion to withdraw his Motion for Attorney Fees by no later than June 21, 2013. In the event Defendant Derrick Lund fails to move to withdraw Dkt. No. 87 by June 21, 2013, then Plaintiff's response to Defendant Derrick Lund's Motion for Attorney Fees [Dkt. 87] shall be filed on or before July 1, 2013.” See Dkts. 94, 95) That it failed to raise arguments in that opposition beyond mootness is its own fault, as it's now proposed arguments could have been raised in its initial Opposition. Moreover, the only reason there was an issue of mootness to begin with was because Plaintiff's counsel failed to serve its Motion To Withdraw Voluntary Dismissal (Dkt. 83) on the Defendant and falsely certified to the Court that it had.

The initial amount of fees claimed was \$8,677.25, which included anticipated fees and allocated fees for work common to multiple clients. Defendant is separately filing an updated accounting of actual fees incurred without any of the allocated fees for work common to multiple clients. The total amount of such fees is \$14,094.97.

Respectfully submitted,

By: s/John M. Bradshaw
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being filed electronically, and notice hereof will automatically be sent to all counsel of record that participate in electronic filing, by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

By: s/John M. Bradshaw
John M. Bradshaw